

**Remarks**

Claims 1-3, 5-20, 23 and 24 are pending in the application.

The Office Action rejected claims 1-3, 5-7, 9-10, 19-20 and 24 under 35 U.S.C. §103(a) as obvious over Crawley et al. (US 5,948,707) in view of Lindquist. The Office Action recognizes that Crawley fails to explicitly disclose either the claimed aspect ratio or that the stems are integral with the backing layer.

The Crawley reference discloses certain non-slip, waterproof and water permeable fabrics made by applying a discontinuous coating of "dots" or other such shapes on one surface of a permeable film (see Crawley, e.g., Abstract). Crawley teaches the application of a discontinuous raised pattern by coating or printing methods (see col. 7, lines 5-10). These methods are known in the art for producing only relatively thin discontinuous coatings, i.e., an aspect ratio less than 1. The Office cites Crawley's disclosure at col. 7, lines 20-25 which describes, in only the most general terms, the application of several alternative geometries to hemispherical dots (having, at most, an aspect ratio of 1.0). Using the discontinuous coating methods described in Crawley would not produce a shape on the surface with an aspect ratio greater than 1. In light of the complete absence of any teaching or suggestion to make a raised pattern with an aspect ratio of at least about 1.25, Crawley is inadequate to render the subject matter of the rejected claims obvious.

Moreover, Crawley does not teach or suggest stems formed integrally with the backing layer. Rather, use of stems formed integrally with the backing layer would destroy the functionality of Crawley. Crawley teaches an elastomeric material with high MVTR to allow moisture permeability through the uncoated portions. Using stems integral with the backing layer would form a continuous coating of material that would defeat the moisture permeability taught by Crawley.

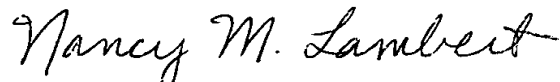
Lindquist is cited in the Office Action with "equivalent teachings" to Crawley. Lindquist teaches a discontinuous coating of foam on a substrate such as a gauze or open mesh fabric. The arguments against Lindquist are equally applicable to the arguments against Crawley. For at least the foregoing reasons, Applicants submit that the rejected claims are patentable over Crawley and Lindquist.

The Office Action also rejected claims 11-18 under 35 U.S.C. § 103(a) as obvious over the disclosure of Crawley and Lindquist in view of Lind (US

4,204,532). The Office Action recites that Lind teaches "a fenestration material with a scrim reinforcement." The Office Action argues that it would have been obvious to use the "fenestration material structure between the base material layers of a medical drape structure for the purpose of improving the instrument retaining, non-skid, and absorbency characteristics of the drape." Applicants note that a fenestration is an opening in the surgical drape that provides the clinician with access to a desired site on the patient's body while preserving the function of the surgical drape for other areas of the patient's body. See for example, Lindquist at col 5, lines 34-45 or U.S. Patent No. 6,382,212. Applicants therefore disagree with the Examiner's conclusion that the fenestration of Lind would teach a reinforcing layer.

Claim 23 was rejected under 35 U.S.C. §103(a) as obvious in light of Crawley and Lindquist combined with Chen (US 3,972,328). Because none of the cited secondary references cure the defects of Crawley and Lindquist, the rejected claims are also patentable over Crawley and Lindquist in view of the Lind and Chen references. Reconsideration and withdrawal of the rejections based on the above references are requested.

Respectfully submitted,

  
Nancy M. Lambert  
Registration No. 44,856  
Attorney for Applicants

NML:jlh/54402US028 Response to OA 6.3.03  
Office of Intellectual Property Counsel  
3M Innovative Properties Company  
P.O. Box 33427  
St. Paul, Minnesota 55133-3427  
(651) 733-2180  
Facsimile: (651) 736-3833

Dated: October 3, 2003